

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

MICHAEL LYNN CASH,)
vs. Plaintiff(s),) Case No. CIV-13-30-JHP
UNITED STATES OF AMERICA,)
Defendant(s).)

MINUTE ORDER

You are advised that the following Minute Order was entered by Judge James H. Payne in the above-styled and numbered cause on February 1, 2013:

This matter is before the court on petitioner's motion to vacate pursuant to 28 U.S.C. § 2255. A review of the record reveals that this matter is currently pending on direct appeal to the Tenth Circuit Court of Appeals. *United States v. Cash*, No. 12-7072.

While "there is no jurisdictional bar to the District Court's entertaining a Section 2255 motion during the pendency of a direct appeal ... the orderly administration of criminal law precludes considering such a motion absent extraordinary circumstances." Rule 5 of the Rules Governing § 2255 Proceedings, Advisory Committee Note; *See also United States v. Cook*, 997 F.2d 1312, 1319 (10th Cir.1993) ("Absent extraordinary circumstances, the orderly administration of criminal justice precludes a district court from considering a § 2255 motion while review of the direct appeal is still pending.") Finding that no extraordinary circumstances exist, and for purposes of judicial economy, this matter is hereby DISMISSED WITHOUT PREJUDICE. Petitioner may refile his § 2255 motion within the proper limitations period after the conclusion of his direct appeal and certiorari petition, if any.

WILLIAM B. GUTHRIE, Clerk

By: s/ C. Trzcinski
Deputy Clerk